

This letter provides a reference to the Department's rules regarding the manufacturing machinery and equipment exemption. See 86 Ill. Adm. Code 130.330. (This is a GIL.)

September 8, 2005

Dear Xxxxx:

This letter is in response to your letter dated August 22, 2005, in which you request information. The Department issues two types of letter rulings. Private Letter Rulings ("PLRs") are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. Persons seeking PLRs must comply with the procedures for PLRs found in the Department's regulations at 2 Ill. Adm. Code 1200.110. The purpose of a General Information Letter ("GIL") is to direct taxpayers to Department regulations or other sources of information regarding the topic about which they have inquired. A GIL is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120. You may access our website at www.ILTAX.com to review regulations, letter rulings and other types of information relevant to your inquiry.

The nature of your inquiry and the information you have provided require that we respond with a GIL. In your letter you have stated and made inquiry as follows:

As we discussed earlier in the year, I am outlining the processes involved in distributing steel tubing to our customers. I would appreciate your passing this information on to your Legal Department to see if we qualify for the Manufacturer's Purchase Credit or other relief from sales tax.

The steel tubing arrives on trucks and is removed from the trucks and moved to storage racks using cranes and forklifts. Most tubing is removed from the racks with cranes and forklifts and is put on conveyor belts that carry the tubing to saws where it is measured and cut to the size specified by the customers. The customers distinctly indicate how the tube is to be cut to satisfy their usage/manufacturing requirements. Other tubing is loaded on to trucks with cranes and forklifts to receive outside processing. Finally, the tubing is loaded on to trucks to be transported to the customers using cranes and forklifts.

We spend in excess of \$100,000 a year on blades for our saws. We are also responsible for sales tax. We are currently undergoing an expansion in our present facility. This will encompass the purchase of machines- also taxable- and more blades. All equipment we buy is purchased primarily in manufacturing or assembling of tangible personal property for wholesale sales.

We are committed to and additional expansion in our building, and we want to stay in Illinois. However, we are at an extreme disadvantage relative to the sales tax percentage per dollar. We are seeking some consideration regarding this matter. To make it attractive to stay in this state, is there some possibility that an exemption for some item(s) would be forthcoming? We are in a TIF district, if that has any bearing on our situation or your decision.

Thank you very much for your efforts on our behalf. I look forward to hearing from you soon.

DEPARTMENT'S RESPONSE:

We regret that we cannot provide you with a specific answer in the context of a General Information Letter. We hope the following information may provide you with guidance regarding your specific situation.

Machinery and equipment that is used primarily (over 50% of the time) in the manufacturing or assembling of tangible personal property for wholesale or retail sale or lease is exempt from Retailers' Occupation Tax. See 86 Ill. Adm. Code 130.330. The manufacturing process is the production of any article of tangible personal property, whether such article is a finished product or an article for use in the process of manufacturing or assembling a different article of tangible personal property, by procedures commonly regarded as manufacturing, processing, fabricating, or refining which changes some existing material or materials into a material with a different form, use, or name. These changes must result from the process in question and be substantial and significant. See Section 130.330.

The State of Illinois also provides a Manufacturer's Purchase Credit (MPC) in addition to the exemption for manufacturing machinery and equipment. See 86 Ill. Adm. Code 130.331. Purchasers of manufacturing machinery and equipment that qualifies for the manufacturing machinery and equipment exemption earn a credit in an amount equal to a fixed percentage of the tax which would have been incurred under the Use Tax Act or Service Use Tax Act. The credit may be used to satisfy Use Tax or Service Use Tax liability that is incurred on the purchase of production related tangible personal property that does not qualify for the manufacturing machinery and equipment exemption. See Section 130.331.

I hope this information is helpful. If you require additional information, please visit our website at www.ILTAX.com or contact the Department's Taxpayer Information Division at (217) 782-3336. If you are not under audit and you wish to obtain a binding PLR regarding your factual situation, please submit a request conforming to the requirements of 2 Ill. Adm. Code 1200.110 (b).

Very truly yours,

Terry D. Charlton
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TDC:msk